February 22, 2022

Maryland House Economic Matters Committee
Room 231, House Office Building
Annapolis, MD 21401

House Bill 569 – OPPOSE

Dear Chair Wilson, Vice Chair Crosby, and Members of the House Economic Matters Committee,

The Mid-Atlantic Renewable Energy Coalition (MAREC Action), member companies develop, construct, and operate utility-scale wind, solar, and energy storage projects.

The aim of HB 569 is to promote fair and equitable labor standards for renewable energy development. MAREC Action members value their strong relationships with labor unions and the trades. Our goal with this letter is to share information that may aid in your consideration of this legislation and to express why we have some concerns with this bill in its current form. We are also concerned about the mandatory nature of the requirement for community benefits agreement.

According to American Clean Power, Maryland's clean energy workforce is nearly 6,000 strong and our industry will create significant numbers of new jobs as we continue to expand. Our member companies seek opportunities to work with the skilled trades and union labor where feasible, often with supportive state or federal policy. MAREC opposition is based in what we know works nationally, and out of concern that hasty adoption of new labor standards could slow renewable energy development in the PJM region – during a time when investment in these projects is critically important. **We would welcome the opportunity for a work group, study, or other collaborative effort to determine the policies that work for labor, the trades, and the renewable energy industry.** Below, we highlight a number of concerns with the bill.

Community Benefits Agreements
Community buy-in and acceptance is critical for the success of clean energy projects developed by our member companies. Because we lack the eminent domain authority granted to utility companies, communities and landowners have the ultimate say in whether a project will be accepted into a community. As a result, project developers build in generous land-lease payments for landowners, pay state & local taxes (or payments in lieu of taxes), and negotiate community benefit agreements directly with local leaders and residents. Community benefit agreements are structured according to community priorities and can include a range of benefits, such as: direct financial contributions to local coffers, funding for new or updated public infrastructure (roads, recreation facilities, etc.), funding or training for first responders, conservation, and wildlife initiatives, and much more.

As HB 569 relates to community benefit agreements, in 7–207.3.(C) the bill would **require** developers to take "all reasonable actions" to establish a community benefits agreement. First, and foremost, we do not believe that the community agreement concept should be combined in a bill reflecting the interest to include project labor agreements. Secondly, as indicated, our developers work with the communities to chart out their projects in a reasonable way that meet the community's needs. We do not see a need to

mandate these agreements or even with a standard of "all reasonable actions," which is a very broad standard that clearly could be misconstrued. We think it would make sense to sit down with interested parties and discuss the interest as to why this provision is needed and then address what reasonable steps could be taken outside of legislation to meet these needs, if any. If legislation is warranted, then a separate bill could be drafted to try to address: the needs of the community and then balancing out ratepayer impact and renewable project developer concerns. What we are concerned about is tacking on too many requirements that would make it more difficult than it already is to develop projects in Maryland.

Project Labor Agreements

With regard to the labor provisions in 7–207.3.(D)(1-6), these provisions may likely constrain both project developers and labor from negotiating the specific terms of a Project Labor Agreement (PLA) that are acceptable to both parties. We recommend creating flexibility similar to 7–207.3.(C) by allowing for consideration of what constitutes "reasonable actions" (or terms, in this case) of a PLA. Flexibility is important to ensure Maryland renewable energy projects and labor organizations can remain competitive for opportunities in a multi-state market with divergent labor standards.

Finally, we note that the compliance and reporting provisions in 7–207.3.(E-F) appear to place a substantial burden on project developers to ensure that various contractors have met licensure, certification and apprenticeship requirements. Responsibility for meeting these requirements, while generally reasonable, should primarily be in the hands of the contractors and any subcontractors. It may not be possible for the developer to ascertain, beyond the face value of a signed certification by the contractor, that said contractor or subcontractors follow the proposed statute.

Prevailing Wage and Record Keeping

We understand the goal of 7–207.3.(F), which is ensuring that all workers on a given project are compensated fairly under the terms of the PLA. However, requiring three different entities to maintain and update schedule and wage information is a significant record keeping requirement that may be accomplished in a more streamlined fashion. For example, structuring this section to reflect the requirements of the current prevailing wage laws and enforcement protocols may make more sense for developers, contractors, and subcontractors who may be more familiar with existing requirements rather than a new standard. Considering that a single utility-scale renewable energy project can employ many hundreds of individuals during active construction, the requirement for the developer and various contractors to all keep records of individual work schedules is significant.

We appreciate the opportunity to provide these comments for your consideration of SB 569. While we oppose this bill its current form, we would recommend that the labor aspects of the bill and the community benefits agreement provision be separated into separate study groups for further evaluation, the results of which could be considered in the next legislative session.

Sincerely,

Bruce Burcat
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